

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CYWEE GROUP LTD.,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

CASE NO. 1:18-cv-00571-RGA

JOINT STATUS REPORT

Pursuant to the Court’s oral order dated March 9, 2023 (Dkt. 46), Plaintiff CyWee Group Ltd. (“CyWee”) and Defendant Google LLC (“Google”) respectfully submit the following Joint Status Report.

On August 8, 2022, CyWee and Google filed a Joint Status Report detailing the then-current status of the Google IPRs and the ZTE IPR and stating that neither party was requesting lifting the stay of the proceedings in this action. D.I. 45. As noted in the 2022 Joint Status Report, CyWee asserted in its Complaint in this action that Google infringes claim 14 of U.S. Patent No. 8,441,438 (“the ’438 Patent”) and claim 10 of U.S. Patent No. 8,552,978 (“the ’978 Patent”) in addition to one or more additional claims of both patents.¹ Google filed IPR petitions challenging certain claims in both patents. Subsequently, ZTE filed an IPR petition challenging certain claims of the ’438 Patent. In both the Google IPRs and ZTE IPR, the Board issued final written decisions finding all challenged claims unpatentable, including claim 10 of the ’978 Patent and claim 14 of the ’438 Patent. CyWee appealed those decisions. This Joint Status Report addresses the status of these three IPR appeals: *CyWee Group Ltd. v. Google LLC*, No. 2020-1565 (Fed. Cir. Feb. 8, 2023) and *CyWee Group Ltd. v. Google LLC*, 847 F. App’x 910 (Fed. Cir. 2021) (the “Google Appeals”)

¹ This case was stayed before service of infringement contentions identifying the asserted claims.
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and *CyWee Group, Ltd. v. ZTE (USA), Inc.*, No. 2021-1855 (Fed. Cir.) (the “ZTE Appeal”). A brief summary on the status of each appeal is provided below. A single appeal is currently pending. The parties agree that this case should remain stayed until final resolution of all of the Google and ZTE Appeals, including resolution on any writs of certiorari.

A. The Google Appeals

The Google Appeals have now concluded at the Federal Circuit. As a result, original claims 1 and 3-5 of the ’438 Patent and original claims 10 and 12 of the ’978 Patent have been found invalid. The requested amendments to claims in the ’438 Patent and ’978 Patent have been rejected. *CyWee Group Ltd. v. Google LLC*, — F.4th —, 2023 WL 1807473 (Fed. Cir. 2023). CyWee is evaluating whether to petition the Supreme Court for a writ of certiorari from the final decisions in the Google Appeals but does not currently anticipate doing so.

B. The ZTE Appeal

In the ZTE IPR, the Patent Trial and Appeal Board (“PTAB”) found original claims 1, 4, 5, 14-17 and 19 of the ’438 Patent invalid and rejected CyWee’s proposed amendments to the challenged claims of the ’438 Patent. The ZTE Appeal remains pending at the Federal Circuit. On November 14, 2022, CyWee filed its reply brief. This appeal is fully briefed and awaiting oral argument at the Federal Circuit. CyWee will seek a writ of certiorari to the Supreme Court if it does not prevail in the ZTE Appeal.

Because the outcome of the ZTE Appeal may affect the status of original claims 14-17, and 19 of the ’438 Patent, as well as several proposed contingent amended claims, neither party requests lifting the stay at this time.

Dated: March 13, 2023

Respectfully submitted,

/s/ Stamatios Stamoulis

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